

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND  
Legislative Session 2016, Legislative Day No. 15

Bill No. 63-16

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Mrs. Vicki Almond, Chairwoman  
By Request of County Executive

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By the County Council, September 6, 2016

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A BILL  
ENTITLED

AN ACT concerning

Clean Energy Loan Program

FOR the purpose of establishing a Clean Energy Loan Program for commercial property owners; establishing the scope of and eligibility for the Clean Energy Loan Program; providing for qualifying criteria; establishing a calculation of the clean energy loan surcharge; providing for a recorded agreement and certain notices; providing for the collection of loan payments; establishing default procedures; providing for financing of a loan under the Program; defining certain terms; and generally relating to the Clean Energy Loan Program.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter stricken from existing law.  
~~Strike out~~ indicates matter stricken from bill.  
Underlining indicates amendments to bill.

By adding

Sections 10-15-101 through 10-15-107  
Subtitle 15. Clean Energy Loan Program  
Article 10. Finance  
Baltimore County Code, 2015

1 SECTION 1. BE IN ENACTED BY THE COUNTY COUNCIL OF BALTIMORE  
2 COUNTY, MARYLAND, that the Laws of Baltimore County shall read as follows:

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Article 10. Finance

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SUBTITLE 15. CLEAN ENERGY LOAN PROGRAM.

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§ 10-15-101.

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(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS

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INDICATED.

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(B) "CLEAN ENERGY FINANCING AGREEMENT" MEANS AN AGREEMENT

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BETWEEN A PROPERTY OWNER AND A CLEAN ENERGY LENDER PROVIDING FOR

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THE TERMS AND CONDITIONS OF A CLEAN ENERGY LOAN.

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(C) "CLEAN ENERGY LENDER" MEANS A PRIVATE LENDER PROVIDING A

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CLEAN ENERGY LOAN UNDER THE PROGRAM.

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(D) "CLEAN ENERGY LOAN" MEANS ANY LOAN MADE BY A PRIVATE

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LENDER TO A PROPERTY OWNER UNDER THE PROGRAM.

1 (E) "CLEAN ENERGY LOAN OBLIGATION" MEANS ALL INDEBTEDNESS AND  
2 OBLIGATIONS OF A PROPERTY OWNER TO A CLEAN ENERGY LENDER UNDER A  
3 CLEAN ENERGY FINANCING AGREEMENT.

4 (F) "COMMERCIAL PROPERTY" HAS THE MEANING STATED IN § 1-1101 OF  
5 THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

6 (H) "PROGRAM" MEANS THE CLEAN ENERGY LOAN PROGRAM.

7 (I) "PROGRAM ADMINISTRATOR" MEANS ANY PERSON OR ENTITY CHOSEN  
8 BY THE COUNTY TO MANAGE THE PROGRAM.

9 (J) "PROPERTY OWNER" MEANS AN OWNER OF A COMMERCIAL PROPERTY.

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11 § 10-15-102.

12 IN ACCORDANCE WITH TITLE 1, SUBTITLE 11 OF THE LOCAL GOVERNMENT  
13 ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THERE IS A CLEAN ENERGY  
14 LOAN PROGRAM TO FINANCE ENERGY EFFICIENCY PROJECTS AND RENEWABLE  
15 PROJECTS.

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17 § 10-15-103.

18 (A) COMMERCIAL PROPERTY OWNERS MAY PARTICIPATE IN THE  
19 PROGRAM FOR NONACCELERATING LOANS, FOR A TERM OF UP TO 20 YEARS.

20 (B)(1) THE LOAN AMOUNT UNDER THIS PROGRAM:

21 (I) SHALL BE AT LEAST \$5,000 AND NOT MORE THAN 20% OF  
22 THE FULL CASH VALUE OF THE PROPERTY; AND

1 (II) TOGETHER WITH THE OUTSTANDING BALANCE OF THE  
2 MORTGAGE OR DEED OF TRUST MAY NOT BE MORE THAN 90% OF THE FULL  
3 CASH VALUE OF THE PROPERTY.

4 (2) THE FULL CASH VALUE IS DETERMINED BY THE STATE  
5 DEPARTMENT OF ASSESSMENTS AND TAXATION.

6 (C) IN ORDER TO BE ELIGIBLE FOR A LOAN, THE PROPERTY OWNER SHALL:

7 (1) HAVE A 100% OWNERSHIP INTEREST IN THE PROPERTY LOCATED  
8 IN BALTIMORE COUNTY FOR WHICH THE IMPROVEMENTS ARE PROPOSED;

9 (2) DEMONSTRATE THAT THE MOST RECENT PROPERTY TAXES,  
10 ASSESSMENTS AND CHARGES ON THE PROPERTY HAVE BEEN PAID;

11 (3) PROVIDE A COPY OF WRITTEN NOTICE TO ALL CURRENT  
12 HOLDERS OF A MORTGAGE OR DEED OF TRUST WHO HAVE A PRIORITY  
13 RECORDED LIEN ON THE PROPERTY AND WRITTEN PROOF OF EXPRESS CONSENT  
14 TO THE CLEAN ENERGY LOAN AS A PRIORITY LIEN BY ALL CURRENT HOLDERS  
15 OF A MORTGAGE OR DEED OF TRUST ON THE PROPERTY; AND

16 (4) ESTABLISH THAT THE OWNER OF THE COMMERCIAL PROPERTY  
17 IS ABLE TO REPAY THE LOAN PROVIDED UNDER THE CLEAN ENERGY LOAN  
18 PROGRAM, IN A MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A  
19 MORTGAGE LOAN UNDER §§ 12-127, 12-311, 12-409.1, 12-925, AND 12-1029 OF THE  
20 COMMERCIAL LAW ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

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1 § 10-15-104.

2 (A) THE FOLLOWING IMPROVEMENTS, EITHER NEW OR REPLACEMENT, TO  
3 A NEW OR EXISTING COMMERCIAL PROPERTY, QUALIFY AS ENERGY EFFICIENCY  
4 OR RENEWABLE ENERGY PROJECTS UNDER THE CLEAN ENERGY LOAN  
5 PROGRAM:

6 (1) SOLAR ENERGY EQUIPMENT;

7 (2) GEOTHERMAL ENERGY DEVICES;

8 (3) WIND ENERGY SYSTEMS;

9 (4) WATER CONSERVATION DEVICES NOT REQUIRED BY LAW;

10 (5) ANY CONSTRUCTION, RENOVATION OR RETROFITTING OF  
11 COMMERCIAL PROPERTY TO REDUCE ENERGY CONSUMPTION, INCLUDING, HIGH  
12 EFFICIENCY LIGHTING AND BUILDING SYSTEMS, HEATING VENTILATION AIR  
13 CONDITIONING (HVAC) UPGRADES, HIGH EFFICIENCY BOILERS AND FURNACES,  
14 HIGH EFFICIENCY HOT WATER HEATING SYSTEMS, COMBUSTION AND BURNER  
15 UPGRADES, FUEL SWITCHING, HEAT RECOVERY AND STEAM TRAPS, BUILDING  
16 SHELL OR ENVELOPE IMPROVEMENTS, FENESTRATION IMPROVEMENTS,  
17 BUILDING ENERGY MANAGEMENT SYSTEMS, AND PROCESS EQUIPMENT  
18 UPGRADES; AND

19 (6) ANY OTHER IMPROVEMENT APPROVED BY THE COUNTY OR THE  
20 CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR AS QUALIFYING AS AN  
21 ENERGY EFFICIENCY PROJECT OR RENEWABLE ENERGY PROJECT.

1 (B) A CLEAN ENERGY LOAN MAY BE USED TO PAY FOR ALL COSTS  
2 INCURRED BY A PROPERTY OWNER IN CONNECTION WITH THE QUALIFYING  
3 IMPROVEMENTS, INCLUDING:

4 (1) THE COST OF AN ENERGY AUDIT;

5 (2) FEASIBILITY STUDIES AND REPORTS;

6 (3) PROJECT MANAGEMENT, DESIGN, INSTALLATION, AND  
7 CONSTRUCTION OF THE QUALIFYING IMPROVEMENTS;

8 (4) COMMISSIONING;

9 (5) ENERGY SAVINGS OR PERFORMANCE GUARANTY OR  
10 INSURANCE;

11 (6) BUILDING ACCREDITATION;

12 (7) CLOSING COSTS OF THE CLEAN ENERGY LOAN;

13 (8) PERMITTING FEES;

14 (9) ADMINISTRATIVE FEES;

15 (10) POST-INSTALL EVALUATION, MEASUREMENT AND  
16 VERIFICATION; AND

17 (11) BUILDING ACCREDITATION.

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19 § 10-15-105.

20 (A)(1) A PROPERTY OWNER PARTICIPATING IN THE CLEAN ENERGY LOAN  
21 PROGRAM SHALL REPAY THE CLEAN ENERGY LOAN THROUGH A SURCHARGE  
22 ON THE PROPERTY OWNER'S REAL PROPERTY TAX BILL.

1                   (2) ON RECEIPT OF WRITTEN NOTICE FROM THE CLEAN ENERGY  
2 LOAN PROGRAM ADMINISTRATOR OF THE EXECUTION OF A CLEAN ENERGY  
3 LOAN FINANCING AGREEMENT, THE COUNTY SHALL, WITHIN SIXTY (60) DAYS  
4 AFTER THE DATE OF THE CLEAN ENERGY LOAN FINANCING AGREEMENT, ADD  
5 THE SURCHARGE TO THE TAX PROPERTY BILL.

6                   (3) THE SURCHARGE SHALL CONSTITUTE A FIRST LIEN ON THE  
7 PROPERTY FROM THE DATE IT BECOMES PAYABLE UNTIL THE UNPAID  
8 SURCHARGE AND INTEREST AND PENALTIES ON THE SURCHARGE ARE PAID IN  
9 FULL, REGARDLESS OF A CHANGE IN OWNERSHIP, WHETHER VOLUNTARY OR  
10 INVOLUNTARY.

11                   (4) A PERSON OR ENTITY THAT ACQUIRES PROPERTY SUBJECT TO A  
12 SURCHARGE ASSUMES THE OBLIGATION TO PAY THE SURCHARGE.

13                   (5) THE COUNTY MAY ASSIGN THE SURCHARGE LIEN TO THE CLEAN  
14 ENERGY LOAN PROGRAM ADMINISTRATOR.

15                   (B) THE SURCHARGE FOR A CLEAN ENERGY LOAN SHALL INCLUDE THE  
16 CLEAN ENERGY LOAN OBLIGATION AND ANY ADMINISTRATIVE COSTS  
17 INCURRED BY THE COUNTY, WHICH SHALL BE THE ACTUAL EXPENSES  
18 INCURRED TO ADMINISTER THE PROGRAM.

19                   (C) THE PROPERTY OWNER SHALL EXECUTE AN AGREEMENT WITH THE  
20 COUNTY AND THE CLEAN ENERGY LENDER THAT WILL BE RECORDED IN LAND  
21 RECORDS OF THE COUNTY, AT THE EXPENSE OF THE OWNER, WHICH SHALL  
22 INCLUDE:

1 (1) THE DATE THE CLEAN ENERGY LOAN WAS MADE TO THE  
2 PROPERTY OWNER AND THE PROPERTY BECAME SUBJECT TO THE SURCHARGE;

3 (2) THE TERM OF THE CLEAN ENERGY LOAN AND OVER  
4 WHICH THE SURCHARGE WILL APPLY TO THE PROPERTY;

5 (3) THE AMOUNT OF THE CLEAN ENERGY LOAN OBLIGATION  
6 AND ESTIMATED COUNTY ADMINISTRATIVE COSTS FOR THE FIRST YEAR;

7 (4) THE ANNUAL PRINCIPAL AND INTEREST AMOUNT FOR  
8 EACH YEAR OF THE TERM OF THE CLEAN ENERGY LOAN, INCLUDING ANY  
9 PARTIAL YEAR PRORATED AMOUNTS;

10 (5) THE PREPAYMENT REQUIREMENTS AND ANY PREPAYMENT  
11 PREMIUM THAT MAY APPLY TO A PREPAYABLE CLEAN ENERGY LOAN;

12 (6) NOTICE THAT THE CLEAN ENERGY LOAN OBLIGATIONS  
13 AND THE COUNTY'S ADMINISTRATIVE COSTS WILL BE REPAID THROUGH A  
14 SURCHARGE INCLUDED ON THE OWNER'S REAL PROPERTY TAX BILL DUE AND  
15 PAYABLE ON THE SAME DATE AS THE REAL PROPERTY TAX BILL;

16 (7) NOTICE THAT AN UNPAID CLEAN ENERGY LOAN  
17 SURCHARGE CONSTITUTES A FIRST LIEN ON THE PROPERTY THAT HAS PRIORITY  
18 OVER PRIOR OR SUBSEQUENT LIENS IN FAVOR OF PRIVATE PARTIES AND THAT  
19 THE SURCHARGE WILL CONTINUE AS A LIEN ON THE PROPERTY FROM THE DATE  
20 IT BECOMES PAYABLE UNTIL THE UNPAID SURCHARGE AND INTEREST AND  
21 PENALTIES ON THE SURCHARGE ARE PAID IN FULL, REGARDLESS OF A CHANGE

1 IN OWNERSHIP OF THE PROPERTY, WHETHER VOLUNTARY OR INVOLUNTARY;  
2 AND

3 (8) NOTICE THAT IF PAYMENTS OF SURCHARGES ARE NOT  
4 TIMELY PAID, THE SURCHARGE WILL BE COLLECTIBLE AS A TAX LIEN THROUGH  
5 THE TAX SALE PROCESS AUTHORIZED UNDER TAX-PROPERTY ARTICLE, TITLE 14,  
6 SUBTITLE 8 OF THE ANNOTATED CODE OF MARYLAND AND IN ACCORDANCE  
7 WITH ARTICLE 11, TITLE 2, SUBTITLE 4 OF THE CODE AND THAT AN OVERDUE  
8 SURCHARGE WILL BE SO COLLECTED, IRRESPECTIVE OF WHETHER REAL  
9 PROPERTY TAXES (OR ANY OTHER TAXES, CHARGES, OR ASSESSMENTS) ARE  
10 DUE AND OWING.

11 (D)(1) IN THE EVENT OF DEFAULT ON THE CLEAN ENERGY LOAN  
12 SURCHARGE, THE COUNTY SHALL COLLECT THE LIEN IN ACCORDANCE WITH  
13 ARTICLE 11, TITLE 2, SUBTITLE 4 OF THE CODE, IRRESPECTIVE OF WHETHER  
14 PROPERTY TAXES (OR ANY OTHER TAXES, CHARGES, OR ASSESSMENTS) ARE  
15 DUE AND OWNING.

16 (2) THE COUNTY MAY NOT INCUR ANY LIABILITY TO THE CLEAN  
17 ENERGY LENDER OR OTHERS IN THE EVENT OF DEFAULT.

18 (F)(1) THE COUNTY SHALL HAVE NO OWNERSHIP OF THE SURCHARGES  
19 COLLECTED EXCEPT FOR ADMINISTRATIVE COSTS PROVIDED UNDER THIS TITLE.

20 (2) THE COUNTY SHALL PAY ALL SURCHARGE PAYMENTS IN ANY  
21 CALENDAR MONTH TO THE APPLICABLE CLEAN ENERGY LENDER OR THE CLEAN

1 ENERGY LOAN PROGRAM ADMINISTRATOR WITHIN 30 DAYS AFTER THE END OF  
2 THE MONTH IN WHICH SUCH AMOUNTS ARE COLLECTED.

3 (3) THE COUNTY SHALL HAVE NO OBLIGATION TO MAKE PAYMENTS  
4 TO ANY CLEAN ENERGY LENDER WITH RESPECT TO ANY CLEAN ENERGY LOAN  
5 OBLIGATION OTHER THAN THAT PORTION OF SURCHARGE ACTUALLY  
6 COLLECTED FROM A PROPERTY OWNER FOR THE REPAYMENT OF A CLEAN  
7 ENERGY LOAN.

8 (4) PAYMENTS RECEIVED FROM A PROPERTY OWNER SHALL BE  
9 CREDITED FIRST TO ALL COUNTY TAXES, ASSESSMENTS, AND CHARGES.

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11 § 10-15-106.

12 (A)(1) ANY PRIVATE LENDER MAY PROVIDE CLEAN ENERGY LOANS.

13 (2) A CLEAN ENERGY FINANCING AGREEMENT MAY CONTAIN ANY  
14 TERMS AGREED TO BY THE CLEAN ENERGY LENDER AND THE PROPERTY  
15 OWNER, AS PERMITTED BY LAW, FOR THE FINANCING OF CLEAN ENERGY  
16 LOANS.

17 (B) THE COUNTY:

18 (1) SHALL SERVE ONLY AS A PROGRAM SPONSOR TO FACILITATE  
19 LOAN REPAYMENT BY INCLUDING THE SURCHARGE ON THE COUNTY REAL  
20 PROPERTY TAX BILL FOR THE PROPERTY; AND

21 (2) MAY NOT:

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1 (I) FINANCE OR FUND ANY LOAN UNDER THE PROGRAM; AND  
2 (II) INCUR ANY LIABILITY FOR A LOAN.

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4 § 10-15-107.

5 (A) THE DIRECTOR OF BUDGET AND FINANCE MAY ADOPT REGULATIONS  
6 IN ACCORDANCE WITH ARTICLE 3, TITLE 7 OF THE CODE TO CARRY OUT THE  
7 PROVISIONS OF THIS TITLE.

8 (B) THE COUNTY EXECUTIVE MAY ENTER INTO AN AGREEMENT WITH A  
9 PRIVATE ENTITY TO ADMINISTER THE PROGRAM. THE AGREEMENT IS SUBJECT  
10 TO THE APPROVAL OF THE COUNTY COUNCIL.

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12 SECTION 2. AND BE IT FURTHER ENACTED, that this, having passed by the  
13 affirmative vote of five members of the County Council, shall take effect on ~~October 30, 2016~~  
14 October 16, 2016.